

The James Madison Project  
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18 September 2007

Scott Koch  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, DC 20505

APPROVED FOR  
RELEASE DATE:  
18-Aug-2010

2007 SEP 18 AM 11:22

Re: F-2007-01615

Dear Mr. Koch:

Let me apologize for the lateness of this response to your letter dated July 17, 2007. I was out of town over the summer for scheduled vacation for two weeks and then in California for several weeks to serve as civilian defense co-counsel in an Article 32 proceeding in an U.S. Marine criminal case arising from activities in Haditha, Iraq. Finally, since my return on September 5, 2007, I have been handling more than one dozen depositions in two separate lawsuits through my law office.

I would like to request that you provide the equivalent of a short grace period to cover the time that has lapsed since your response. If that is not possible, please consider this letter a revival of my request in the form of a new request on behalf of The James Madison Project under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*, for copies of any and all declarations or affidavits filed by the Director (or his designee) of the Central Intelligence Agency ("CIA") in the following lawsuits wherein the state secrets privilege was invoked:

- (1) Heine v. Raus, 261 F. Supp. 570 (D.Md. 1966) or its progeny:  
399 F.2d 785 (4<sup>th</sup> Cir. 1968), 305 F. Supp. 816 (D. Md. 1969), 432 F.2d  
1007 (4th Cir. Md. 1970)

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*"Knowledge will forever govern ignorance, and a people who mean to be their own Governors,  
must arm themselves with the power knowledge gives."*

*James Madison, 1822*

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- (2) Halkin v. Helms, Civil Action No. 75-1773 (D.D.C.), 690 F.2d 977 (D.C. Cir. 1982)
- (3) Foster v. United States, 12 Cl. Ct. 492 (1987)

Furthermore, regardless of whether a grace period is afforded or if a new request is filed, please also review and consider my appeal of the denial of my request for a fee waiver. In my original request dated July 6, 2007, I requested a fee waiver, as The James Madison Project is a non-profit organization with the ability to disseminate information on a wide scale. All previous requests to the CIA for fee waivers had been granted. However, your letter indicated that the CIA had decided to deny this particular request for a fee waiver.

According to your letter, the decision to deny the request for a fee waiver was based on the fact that my request did not meet the requisite standards because "disclosing the information you seek is not likely to contribute significantly to public understanding of the operations and activities of the United States Government." The letter noted that an appeal of the decision can be submitted within 45 days.

In contrast to your argument, disclosing this particular information will most assuredly contribute significantly to public understanding of the operations and activities of the United States Government. Revealing the circumstances and rationale surrounding the invocation of the state secrets privilege will demonstrate the process that underlies the decision to invoke the privilege. To date, numerous cases against the CIA, involving a host of aggrieved individuals involved in national security whistleblowing and other situations, have been prematurely cut short by the government's invocation of the state secrets privilege. In all of those cases, the affidavits signed by the Director of the CIA have been kept under seal, preventing the public from understanding the justification that permitted the deprivation of a fellow citizen's right to utilize the judiciary system to request relief for harm incurred. The likelihood of this information contributing significantly to the public's understanding of government operations and activities could not be more apparent or clear.

Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me at either (202) 498-0011 or my law office at (202) 454-2809.

Finally, please have all return correspondence addressed specifically to my attention

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to ensure proper delivery.

Sincerely,



Executive Director

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*James Madison, 1822*

# Fax

**To:** Scott Koch**From:** Mark S. Zaid**Fax:** (703) 613-3007**Pages:** 4**Phone:** (202) 498-0011**Date:** 9/18/2007**Re:** F-2007-01615**CC:**☐ **Urgent**☐ **For Review**☐ **Please Comment**☐ **Please Reply**☐ **Please Recycle**